



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/555,371 | 05/30/2000 | NOBUYA SATO | 0327-0840-3 | 8292 |

7590 04/15/2002

OBLON SPIVAK MCCLELLAND
MAIER & NEUSTADT
1755 JEFFERSON DAVIS HIGHWAY
FOURTH FLOOR CRYSTAL SQUARE FIVE
ARLINGTON, VA 22202

EXAMINER

PRATT, CHRISTOPHER C

ART UNIT

PAPER NUMBER

1771

6

DATE MAILED: 04/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) |
|------------------------------|------------------------|---------------------|
| | 09/555,371 | SATO ET AL. |
| Examiner | Art Unit | |
| | Christopher C. Pratt | 1771 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 12 February 2002 .

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-10 is/are pending in the application.
4a) Of the above claim(s) 9 and 10 is/are withdrawn from consideration

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-8 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. ____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3
4) Interview Summary (PTO-413) Paper No(s). ____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of group I, claims 1-8, in Paper No. 5 is acknowledged. The traversal is on the ground(s) that a search of all groups would not present a serious burden to the examiner. This is not found persuasive for two reasons. First, this consideration is not germane to the of Lack of Unity rules established in PCT rule 13.2. Second, an examination of all groups would, in fact, result in a serious burden to the examiner because applicant's different inventions are spread out over multiple classes.

The requirement is still deemed proper and is therefore made FINAL.

Drawings

2. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81. No new matter may be introduced in the required drawing.

The drawings should illustrate a materials "shaped to have unevenness" with a "pitch of 3.5mm or greater."

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite because it contains the phrase "shaped to have unevenness." This phrase does not limit the metes and bounds of the claim because a sheet can be "shaped" to be uneven in an infinite number of variations.

Claim 5 is indefinite because it is not clear how "pitch" can be measured in mm. Is applicant referring to the angle of the unevenness?

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asahi (JP404154573A).

Asahi is concerned with the creation of a food packaging material comprising a hydrophobic nonwoven sheet having applicant's claimed air permeability and water resistance. Said sheet having an uneven three-dimensional surface created by perforating. It cannot be determined if Asahi teaches applicant's claimed thickness or compressive recovery due to the lack of a translation. However, it would have been obvious to a person having ordinary skill in the art to modify the compression recovery

and thickness of the material. The skilled artisan would have been motivated to vary the compressive recovery and thickness of the material by the desire to enhance the materials ability to cushion food products and increase absorbency.

With respect to claims 4-5, if Ashahi does not teach or inherently have applicant's claimed height and pitch then it would have been obvious to a person having ordinary skill in the art to modify the perforations of Asahi. Such a modification would have been motivated by the desire to regulate the breathability and permeability of Asahi's material.

7. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asahi (JP404154573A) in view of Akahori et al (5310587).

Asahi teaches said nonwoven layer to be laminated with a film, however, it can not be determined if Asahi teaches a second nonwoven layer.

Akahori is concerned with the creation a food wrapping material comprising multiple nonwoven layers (col. 2, lines 45-60). Akahori also teaches the nonwoven layers to be formed from ultra fine fibers (col. 3, lines 18-21). It would have been obvious to a person having ordinary skill in the art to combine the additional nonwoven layer of Akahori with the material of Asahi. Such a combination would have been motivated by the desire to improve the absorbency and heat insulation of Asahi's material.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number is 703-305-6559. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

Christopher C. Pratt
April 1, 2002